IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 251 of 1991

For Approval and Signature:

HONOURABLE MR.JUSTICE KS JHAVERI

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UNITED INDIA INSURANCE CO.LTD. - Appellant(s)
Versus
DECD.HARILAL R JOSHI, THRO'HISBROTHER LABHSHANKER R JOSHI & 2 - Defendant(s)

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Appearance :

MR KF DALAL for Appellant(s) : 1,
MR NK MAJMUDAR for Defendant(s) : 1,
DELETED for Defendant(s) : 2,
None for Defendant(s) : 3,

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CORAM : HONOURABLE MR.JUSTICE KS JHAVERI

Date : 10/08/2006

ORAL JUDGMENT

1.0 By way of this appeal, the appellant has challenged the judgment and award of the Motor Accident Claims Tribunal (Special), Rajkot passed in Claim Case No.356 of 1985 dated 20.09.1990.

2.0 The brief facts of the case are that on 08.07.1985 when the deceased Harilal Revashankar Joshi was proceeding on 80' feet road, he was

dashed by a truck driven by present opponent No.2(deleted) and owned by present opponent No.3. On account of the said accident deceased received serious bodily injuries and expired. Therefore, present opponent No.1 being the heir and legal representative of the deceased filed an application claiming an amount of Rs.1,00,000/- by way of compensation.

2.1 In the said application, after hearing the parties, the tribunal passed the judgment and award which is under challenge in this appeal.

3.0 Heard learned Counsel for the appellant as well as opponent No.1. Though, served none appears on behalf of the opponent No.3. It was the case of the opponent No.1 before the Tribunal that on 08.07.1985 when his deceased brother was walking on the 80' feet road, he was dashed by the vehicle in question. The story put forward by the opponent No.1 is supported by the F.I.R. (Exh.49), 'Panchnama' of the scene of offence

(Exh.48) and post-mortem report (Exh.50) of the deceased. It may be noted that the driver and owner of the vehicle in question had neither appeared before the Tribunal nor had filed any reply. Therefore, the Tribunal is justified in holding that the accident in question took place on account of the sole negligence on the part of the driver of the offending vehicle, and hence, the opponent No.1 is entitled for compensation.

3.1 As regards the contention of the learned Advocate for the appellant that since the vehicle in question was transferred, the Tribunal ought not to have held it liable to satisfy the claim is concerned, on perusal of insurance policy of the vehicle in question (Exh.47) it clearly transpires that the vehicle in question was transferred on 12.07.1985 whereas the accident in question had taken place on 08.07.1985. Therefore, the said contention raised by the learned Advocate for the appellant requires to be rejected. I am, therefore, in complete agreement

with the reasoning given and the findings arrived at by the Tribunal, and hence, find no reason to interfere in this appeal.

4.0 In the result, the appeal stands dismissed. No order as to costs.

(K.S. Jhaveri,J.)

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